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A Legal Update from Dechert LLP

U.S. Federal Housing Finance Agency and Consumer Financial Protection Bureau Announce Plans for a New National Mortgage Database

The Federal Housing Finance Agency (FHFA) and the Consumer Financial Protection Bureau (CFPB) have agreed to collaborate to create a National Mortgage Database to chart housing market trends and support policymaking and research efforts. The database is also intended to fulfill a requirement under the Housing and Economic Recovery Act of 2008 for the FHFA to conduct a monthly mortgage market survey.

The mortgage database, which will date back to 1998, will be updated on a monthly basis and will include information such as the borrower's financial and credit profile; the mortgage product and terms; the property purchased or refinanced; and the ongoing payment history of the loan.¹ The database will create datasets on mortgages by matching informational files, such as property valuation models, to a nationwide sampling of credit bureau files on borrowers' mortgages and payment histories.

Goals for the Creation of the Mortgage Database

While multiple state and federal databases and private databases currently exist, the FHFA and the CFPB intend to create one large, comprehensive database concerning the mortgage market to accomplish the following goals:

- Streamline data for research and policy purposes;
- Monitor the health of mortgage markets and consumers by providing detailed mortgage loan performance information regarding payments, modifications, foreclosures and bankruptcies;
- Better understand consumer decision making through the use of surveys;
- Monitor the volume and performance of new and emerging products in the mortgage market;
- Increase transparency regarding first and second mortgages outstanding to a particular borrower and how they are performing; and
- Better understand emerging borrower trends and overall consumer debt burdens by providing information regarding a borrower's other debt obligations.²

Concerns Regarding the Database

The FHFA stated that the database will not contain personally identifiable information and that appropriate precautions will be taken by the agencies to ensure that individual consumers cannot be identified through the database or any datasets that may be available to researchers or the public. However, observers have expressed concerns with regard to the level of detailed borrower information that the agencies intend to collect and include in the database, and how the information will be used.³ Market participants also worry that the database may increase burdens on lenders by requiring them to hire additional personnel to compile

information for the government, and expose lenders to potential liability regarding the accuracy of such information.⁴

Conclusion

The FHFA and the CFPB have signed an Inter-Agency Agreement regarding the terms for developing, maintaining and funding the database, and expect an early version of the full dataset to be complete in 2013.

Footnotes

1 Federal Housing Finance Agency News Release, *FHFA and CFPB Partner on Development of National Mortgage Database* (November 1, 2012)

2 Id.

3 Kate Davidson, *CFPB, FHFA Join Forces to Create Mortgage Database*, American Banker (Nov. 2, 2012) [Log in required to view article on American Banker Website]

4 Id.

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